

**BATTLE CREEK CITY PLANNING COMMISSION
MEETING MINUTES
Wednesday, May 27, 2009**

1. Call to Order:

Mayor Behnke called the meeting to order at 4:02 p.m.

2. Attendance:

Members Present:

Steve Barker	Preston Hicks	John Stetler
Mark Behnke(Mayor)	William Morris	
Jan Frantz	Chip Spranger	

Staff Present: Brad Misner, ACIP, Planning Supervisor
Jill Steele, Assist. City Attorney
Glenn Perian, Senior Planner, Planning Dept.
Leona Parrish, Administrative Assistant, Planning Dept.

3. Election of Chairperson:

A MOTION WAS MADE BY COMMISSIONER MORRIS TO NOMINATE COMMISSIONER BARKER AS CHAIRPERSON; COMMISSIONER BARKER DECLINED.

A MOTION WAS MADE BY COMMISSIONER MORRIS TO NOMINATE COMMISSIONER HICKS AS CHAIRPERSON; COMMISSIONER HICKS STATED HE WOULD CHAIR TODAY'S MEETING AND CONSIDER BECOMING THE CHAIRPERSON FOR FUTURE MEETINGS.

VOTE ON MOTION: ALL YES, NONE OPPOSED MOTION CARRIED.

4. Election of Vice-Chairperson:

A MOTION WAS MADE BY MAYOR BEHNKE TO NOMINATE COMMISSIONER BARKER AS VICE-CHAIRPERSON; COMMISSIONER BARKER ACCEPTED.

VOTE ON MOTION: ALL YES, NONE OPPOSED MOTION CARRIED.

5. Additions or Deletions to the Agenda: None

6. Approval of Minutes: Meeting Minutes of March 25, 2009.

Commissioner Hicks noted corrections to page 7, first new paragraph should read: "Commissioner Hicks stated the reclassification request is straight forward. The commissioners create a false sense of authority when they get outside of their area of purview. He hopes in the future they confine their comments and exchange for only what they are responsible."

A MOTION WAS MADE BY COMMISSIONER BARKER, SUPPORTED BY MAYOR BEHNKE TO APPROVE THE PLANNING COMMISSION MEETING MINUTES FOR

**MARCH 25, 2009, WITH CORRECTIONS NOTED. VOTE ON MOTION; NONE
OPPOSED MOTION APPROVED.**

7. Correspondence:

Mr. Glenn Perian, Senior Planner; introduced Mr. Bradley Misner to the Planning Commission as the new Planning Supervisor. Mr. Brad Misner stated he was thrilled to be here serving the City of Battle Creek and will bring forward to the Planning Commission information in a timely and accurate manner in order to make good sound decisions. Mr. Misner introduced Ms. Jill Steele to the Planning Commission as the new Assistant City Attorney. Both stated they were happy to be present today and for future Planning Commission meetings. Planning Commission welcomed them both.

8. Public Hearing:

A. SPECIAL USE PERMIT (#S-01-09): Petition from Rev. Peggy Baker, United Methodist Church, 8039 Allison Lane, Battle Creek, MI 49014, Requesting a Special Use Permit of the following described property for use as a Church as permitted under the Planning and Zoning Code, Chapter 1290, Section 1290.01(b)(23), for property located at 5420 Beckley Rd., Battle Creek, MI 49015, Parcel #5515-00-035-0, and legally described as: MINGES CREEK PLACE PART OF LOTS 2, 3, 4, 5, 6 & 7 DESC AS BEG ON N LI OF LOT 2 AT PT 205.89 FT W OF NE COR OF LOT 1 - S 518.5 FT - W 6.8 FT - S 199.33 FT - N 80 DEG W 40 FT - S 10 DEG W 15 FT - N 80 DEG W 20 FT - S 10 DEG W 52.38 FT - N 66 DEG 13 MIN 8 SEC W 333.25 FT - N 18.82 FT - NLY ALG ELY R/W LI OF MINGES CREEK PL THE FOLLOWING DISTANCES: NELY ALG ARC TO RT 211.82 FT - NLY ALG ARC TO LT 211.82 FT - N 200 FT - E ALG S LI OF BECKLEY RD 334.42 FT TO POB CONT 5.73 ACRES M/L SUBJ TO PANHANDLE PIPELINE EASE.

Rev. Peggy Baker, 8039 Allison Lane, Battle Creek, MI was present to speak. Stated she is the Pastor of Outland United Methodist Church, they have been worshipping at the Harper Creek Middle School for 1 ½ years in their auditorium. Last Spring they passed a bond to renovate the auditorium, therefore they need to find a new location to worship. Stated they have been searching diligently for a space and Mr. Garvey is willing to work with them on a lease for the old Fashion Bug space at Minges Creek Plaza, located at 5420 Beckley Road. Noted they had attended the Neighborhood Planning Council meeting and have both NPC #9 & NPC #11 written approval. They are here today seeking approval to hold church services at this location.

With no one else wishing to speak in favor or against, the Public Hearing was closed.

9. Old Business: None

10. New Business:

A. SPECIAL USE PERMIT (#S-01-09): Petition from Rev. Peggy Baker, United Methodist Church, 8039 Allison Lane, Battle Creek, MI 49014, Requesting a Special Use Permit of the following described property for use as a Church as permitted under the Planning and Zoning Code, Chapter 1290, Section 1290.01(b)(23), for property located at 5420 Beckley Rd., Battle Creek, MI 49015, Parcel #5515-00-035-0.

Mr. Brad Misner, Planning Supervisor read the staff report; stated the petitioner is wishing to use the former space for Fashion Bug and Fashion Bug Plus which is approximately 8,000 sq. ft. of existing tenant space. Noted it is within the Minges Creek Plaza and is within the "C-2 General Business District" and the surrounding land use consist of restaurants, retail and other specialty commercial uses which are also located within the C-2 zoning district. Stated directly

across Beckley Rd. uses are within the “C-6 Major Highway Interchange Business District and “C-3 Intensive Business District”. Access is to be from Beckley Road and parking for the church is proposed to be located within the existing parking lot, which is shared by the other existing tenants. Noted the following recommendations and or concerns from the Planning staff:

- Regarding church growth and conditions for parking is a concern that it be met according to ordinance guidelines for all businesses within that plaza area.
- Noted they attended NPC #11 meeting and have their support, also support from NPC #9.
- The Planning Department had not received any correspondence regarding objections to this Special Use request.
- Recommend approval based on conditions outlined in the staff report.

Discussion:

Commissioner Morris asked regarding the use of alcohol within 500 ft. of this location and if someone else wished to lease space within that plaza and offer alcohol sales; how would this be affected in regards to the church being at this location.

Ms. Jill Steele stated the statute states that alcohol cannot be served within 500 ft. of a church or school. Said it may be waived only if the church or school stated they do not object in writing. The commission can waive, and would involve extra steps if someone did want to serve alcohol and not be denied.

Commissioner Morris asked Rev. Baker if the church would object if someone wished to serve alcohol within 500 feet. Rev. Peggy Baker stated they wish to be a church in the community and for the community and understand that the community has a wide range of lifestyles and would not have any objections.

Commissioner Stetler stated the pastor of the church cannot speak for all their congregation members. Ms. Steele stated the leader of the church and/or pastor does have the authority to speak on behalf of the church and would be the person filing the objection with the Liquor Control Commission according to the State Law.

Commissioner Stetler asked if it was then a State Law and not the City Ordinance. Ms. Steele stated that was correct.

Commissioner Frantz asked what tenants would be within 500 ft. of this location. Ms. Steele stated the 500 ft. starts within the center of the road. Mr. Misner stated the Hobby Lobby store is approximately 300 or 400 ft. back from Beckley Road. Ms. Steele stated this is a large parcel of approximately 5 acres and is unique because of its “L” shape.

Mayor Behnke asked Rev. Baker if this was to be the church’s permanent location or were they looking for another location within the City of Battle Creek. Rev. Baker stated it would not be permanent and would like to be there for 2 or 3 years. Noted they have funding for one-year and then will need to be self sustaining; therefore this location lease is for one year. Mayor Behnke stated he would be willing to help them find a church location as there are quite a few available in Battle Creek.

Ms. Steele quoted the State Statue; stated according to the statue they would need to find out if the 500 ft. point of measure is entire building or closest point of the building towards the street. Mr. Misner stated he would contact the Liquor Control Commission to understand how this measurement would be determined and bring back to this commission for any future discussions.

Commissioner Barker asked Mr. Misner if the Special Use Permit is exclusive for the church and not run with the land or property. Ms. Steele stated it is for this applicant only.

Commissioner Barker asked what would make it cease and no longer be in existence. Mr. Misner stated one situation would be if it were granted and they never took occupancy of the space or if they relocated. If it were not used within one year it would become void or they could request to get a 6-month extension.

Commissioner Barker asked if they relocate would it then become void; if it were to be rezoned, would the rezoning stay with the property permanently. Mr. Misner stated yes, that is correct.

Commissioner Barker asked if they grant this Special Use Permit; they would be establishing a church, just as if it is a single building at that location. Is this correct.

Mr. Misner stated this is a type of use that they feel would warrant special consideration, such that if the commission wished they were able to impose conditions to ensure that use is operating in a harmonious manner with the surrounding land uses. In effect it is not a permanent change, but would be establishing that use as a church.

Commissioner Barker asked if it would remove the property from the tax roll. Mr. Misner stated in this particular instance this location is being leased, the owner would still need to pay taxes.

Commissioner Barker asked if the church wanted to do other activities such as daycare, which many churches have; would it be prohibited as it is traditionally done inside a church and would they need another Special Use Permit. Mr. Misner stated he would need to look into its full range of use and would depend on if it became their primary use regarding the land use and if they would need any other types of permits, have adequate parking etc.

Commissioner Barker asked if a number of parking spaces were designated just for the church. Mr. Misner stated if the congregation were to grow to a level above and beyond what they have stated, then that would be a concern where the parking ratio would be a concern. They would ask that they work with staff, so as they grow it can be determined that the required parking is available.

Commissioner Barker asked if they could conduct services without a Special Use Permit at this location. Ms. Steele noted the ordinance states a Special Use Permit would be required.

Mr. Perian provided some additional information regarding Commissioner Barker's last question; that in the downtown area a church was wishing to hold services which are strictly prohibited in the downtown district. Said a study was done by the City Attorney's office and it was determined that once they establish or schedule regularly scheduled services, it then becomes a worship service and would require a Special Use Permit.

A MOTION WAS MADE BY MAYOR BEHNKE, SUPPORTED BY COMMISSIONER FRANTZ TO APPROVE THE APPLICATION FOR A SPECIAL USE PERMIT, TO INCLUDE THE RECOMMENDATIONS AND ADOPT THE NINE POINTS NOTED IN THE STAFF REPORT AS THEIR FINDINGS.

Ms. Jill Steele asked for the commissioners to provide discussion and have each commissioner note their findings for determination item by item, then vote.

Mayor Behnke stated he appreciated her description and stated he finds no violation of the ordinance Chapter 1290.04 for the basis of determination of this application. Said they all achieve agreement with the nine points.

VOTE ON MOTION: THREE IN FAVOR (BEHNKE, HICKS, AND STETLER); FOUR OPPOSED (BARKER, FRANTZ, MORRIS, AND SPRANGER) MOTION FAILED.

Comments for basis for No Votes:

Commissioner Barker stated he could not support as the basis of determination (a) as he feels it is not harmonious with the existing area. Issues with the alcohol sale and is unclear on the 500 ft. rule. He has questions regarding the actual Special Use Permit and its application applying to the group as well as the property.

Commissioner Frantz stated she could not support as she has concerns regarding the commercial nature of the plaza. As with Commissioner Barker, she feels it meets all but one of the criteria for the basis of determination. Also has concerns regarding the liquor license rule, with currently having three restaurants with the possibility of more in the future and not wanting them deterred by the presence of a church. (Noted comments from Pastor Baker taken in to consideration).

Commissioner Morris stated he could not support because of concerns regarding the liquor license rule and would feel more comfortable to know that if there were an offer for another business to be leased in that plaza to not be limited.

Mayor Behnke stated to the petitioner that it may still go before the City Commission for approval, that the Planning Commission can only make a recommendation. Noted if denied by the City Commission they would not be able to reapply for one year.

Ms. Steele stated that according to Chapter 1290.02 states they cannot apply for another 6 months except on grounds of newly discovered evidence or proof of change conditions found in the discursion of the Planning Commission. Do not know what the results of the further investigation of the 500 ft. measurement might be.

11. Comments by the Public:

Ms. Susan Bedsole, Director Licensing and Compliance came forward to introduce Mr. Brad Misner, stated she wanted to personally welcome him and very excited to have him in the Planning Department. Said he has hit the ground running and for these first few weeks he has been great.

12. Comments by the Staff and Commission Members:

Mr. Brad Misner stated the Planning Commission received in their today's meeting packet information that was handed out at the March meeting regarding Accessory Buildings. Said he would like to review and provide staff guidance in the near future.

Commissioner Frantz agreed that it should be reviewed as the Zoning Board of Appeals asked that the Planning Commission review this ordinance.

Commissioner Barker is also in agreement that Accessory Buildings should be reviewed. He also wanted to congratulate Commissioner Hicks on his temporary acceptance as Planning Commission Chairman and that he would commit to being the Vice-Chair.

13. Adjournment:

The meeting adjourned at 4:40 P.M.

Respectfully Submitted,
Mr. Bradley J. Misner, AICP
Battle Creek City Planning Commission